

## *The Hungarian Feudal Institutions as Found in the Legal System of the Second Polish Republic. The Relationships between the Estate Manor and the Village in the Polish Spisz (Szepes) and Polish Orawa (Arva)*

### *1. Geographical Limits of the Discussed Problem*

When, following World War II, Poland restored her independence the Polish-Czechoslovakian borderline resembled to a large extent the former borderline between Austria and Prussia as well as the borderline that at one time divided Cislitavia (Cisleithanien) and Translitavia (Transleithanien) in the former Austro-Hungarian monarchy. In some small areas the aforementioned borderline was subjected to changes which the ethnic relationships or political reasons necessitated. The changes of that type were detectable in the area of Spisz (Szepes) and Orawa (Arva). In this territory the borderline was shifted to the south. As a result two small parts of the previous territory of Hungarian Kingdom (in its shape from 1917/1918) found themselves within the boundaries of Poland.<sup>1</sup> The Hungarian law remained in force in this area in compliance with the time-sanctified principle which commanded to respect the law which previously governed this region.

On that occasion it is worthwhile to emphasize that the discussed part of the former Hungarian Sepesz territory which belonged to Poland from 1918 was quite different from the area of the Zips pledge of the 15<sup>th</sup> through 18<sup>th</sup> centuries.<sup>2</sup>

---

<sup>1</sup> J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju i prawa polskiego*, Warszawa 1999, pp. 465–467.

<sup>2</sup> In exchange for a loan of sixty times the amount of 37,000 Prague groschen, that is approximately seven tons of pure silver, the Hungarian crown pawned 16 rich salt-producing towns in the area of Spisz (Zips), as well as the right to incorporate them into Poland until the debt is repaid. The debt was not repaid and the area of Spisz remained a part of Poland until the partitions of Poland in the late 18<sup>th</sup> century. In 1769, during the Bar Confederation, the Austrian forces of Joseph II, Holy Roman Emperor, acting under the pretext of securing the region from war took control of the towns. See more about Zips pledge: “strona główna”: [http://en.wikipedia.org/wiki/Treaty\\_of\\_Lubowla](http://en.wikipedia.org/wiki/Treaty_of_Lubowla) [accessed: 15.07.2009]. Available in internet [http://en.wikipedia.org/w/index.php?title=Treaty\\_of\\_Lubowla&action=edit&section=1](http://en.wikipedia.org/w/index.php?title=Treaty_of_Lubowla&action=edit&section=1).

## 2. *The Time Limits within which the Hungarian Law Remained in Force in the Territory of the Second Republic of Poland*

Prior to the unification of her civil law, Poland of the inter war time was subject to five legal systems including, among others, that of Germany (the BGB), that of Austria (the ABGB), that of Russia, that of Hungary and that of France. The French law governed for instance the civil law relationships in the former Congress Kingdom since the Napoleonic Code Civil survived there in its amended form. The eastern part of the country was subject to Russian civil law of *Svod Zakonov* in its 20<sup>th</sup> century version. In the early 1920s, and specifically in 1921 and 1922, the Austrian ABGB acquired its binding force in the Polish Spisz and Orawa. Among the exceptions that were made with regard to this territory was the Hungarian law of succession which was left intact. In that respect the last remnants of Hungarian legal system were repealed only after World War II on occasion of abolishing the Hungarian law of succession. This was done by the Statute of 8 Oct. 1946.<sup>3</sup>

It is worthwhile to note that during the inter-war period Poland made a considerable effort to produce modern national codifications in various legal branches (in civil and penal substantive law, the procedures etc.) but this codification process was not completed before the outbreak of World War II.<sup>4</sup>

## 3. *The Hungarian Legal Remnants*

What was binding in Spisz and Orawa was the survival of certain customary norms of the Hungarian law. These norms regulated the serfdom-like relationships that linked the owner of the manorial estate and the peasants who were the inhabitants of three villages in Spisz: Falsztyn (Falstin), Łapsze (Alsólápos, Felsőlápos) and Niedzica (Nedec). These serfdom-like relationships resembled those prevalent in Galicia (Galizien being the Polish province of Cisleithanien) in the 19<sup>th</sup> century prior to the 1848 agrarian reform that abolished the feudal services. The aforementioned peasants were obliged to work the manorial estate, i.e. to render the services resembling those of the serf labour type. They were expected to do it in exchange for their right to have in possession a piece of land and the house that was formally owned by the landlord.

That kind of semi-serfdom relationships survived in the discussed area until the Statute of the 20<sup>th</sup> of March 1931<sup>5</sup> when, under the pressure of the peasant political parties, these relationships were abolished.<sup>6</sup> It is interesting to find that the discussed relationships between the landlord and the peasants were referred to as the *želeri* relationships

<sup>3</sup> Statute of 8 October, 1946 ("Journal of Laws", No. 46, 1946, item 329).

<sup>4</sup> S. Płaza, *Historia prawa w Polsce na tle porównawczym*, t. III, Cracow/Kraków 2001, pp. 34–35, also: J. Ciągwa, *Recepcja prawa węgierskiego na Spiszu i Orawie po 1920 r.*, "Studia Historyczne", nr 39, 1996.

<sup>5</sup> Statute of 20 March 1931 on the liquidation of the *želeri* relationships in Spisz, ("Journal of Laws", 1931, No 037, item 289).

<sup>6</sup> F. Gwiżdż, *Polski słownik biograficzny*, Ossolineum 1960, vol. IX/1, z. 40 (Felix Gwiżdż was one of the peasant politicians who prepared the abolishing of the *želeri* relationships).

(in Polish: *stosunki żelarskie*), the peasants themselves being called *żeleri* which was typical Hungarian terminology.

The survival of this kind of semi-feudal relationships in Spisz and Orawa aroused a considerable interest among the Polish anthropologists, sociologists and historians. The phenomenon was studied as a kind of the “living fossils” resembling that of *latimeria*: the fish from prehistoric era that is still detectable in some regions. The *żeleris* were interviewed by the scholars almost like the Indians in the reserve that should be preserved since they made up a kind of curiosity.<sup>7</sup>

The Polish Ministry of Agriculture of inter war time tried to arrive at a deep insight into the matter.<sup>8</sup> Its staff asked therefore Oskar Balzer, a renown Polish legal historian, for his opinion. Balzer made it clear that the Hungarian law of the early 20<sup>th</sup> century could not provide the basis for the specific relationships that linked the landlord and the peasants in Spisz and Orawa. He emphasized the fact that the Hungarian Constitution of 1848 abolished serfdom and peasant services previously rendered to the owners of manorial estates. What therefore might account for the specific relationships detectable in Spisz and Orawa would be justified only on the basis of civil law contract. On the other hand Balzer found that the peasants could not confirm their duties by any written contract. At the same time their status was considered hereditary. Also the number of days during which they were obliged to render their services to the manor resembled that typical of the Theresian *urbarium* of the 18<sup>th</sup> century.<sup>9</sup>

The researchers who tried to elucidate the situation used to conclude that there were the economic and social reasons rather than legal which were responsible for the survival of the unique arrangements that bound the peasants and their landlord. The *żeleri* who resembled the serfs were the inhabitants of remote isolated villages which, in the circumstances of heavy winter, were hardly accessible and are hardly accessible even today. The level of cultural development of the inhabitants was rather low (most of them were illiterate). The tradition had it that the heads of peasant families were responsible for the services that all family members were expected to render. On the part of the landlord these were his officials who represented him. There were two landlord families that came into play: Salomon family who were of Hungarian extraction and who owned the Niedzica estate (Nedec-Vár estate), and the Jungenfeld family who were the owners of Falsztyn and who represented the Hungarian nobility of German origin.<sup>10</sup>

In the discussed relationships the routine that was followed consisted in the landlord securing the land, the house or the building material as well as the right to use the forest to a specific *żelari* family. In addition, he guaranteed the family a kind of protection. In

<sup>7</sup> M. Hulewiczowa, *Pozostałości ustroju pańszczyźnianego w XX wieku na polskim Spiszu i Orawie*, “Roczniki Dziejów Społecznych i Gospodarczych” (Annales D’Histoire Sociale et Economique), vol. VII, 1938, Lwów (Lemberg), pp. 107–134.

<sup>8</sup> *Umowa między wyżej podpisanymi stronami względem plebańskich zysków parafii jabłońskiej (...)* preserved in Nowy Targ Starostwo (county) Archive. Appendix in “Roczniki Dziejów Społecznych i Gospodarczych” (Annales D’Histoire Sociale et Economique), vol. VII, 1938, Lwów (Lemberg), pp. 137–139.

<sup>9</sup> *Prof. O. Balcer’s opinion (Opinia prof. Oswalda Balzera o żelarstwie na Spiszu)* preserved in Nowy Targ Starostwo (county) Archive. Case IIIIf, No. 22, also: Appendix in “Roczniki Dziejów Społecznych i Gospodarczych” (Annales D’Histoire Sociale et Economique), vol. VII, 1938, Lwów (Lemberg), pp. 134ff.

<sup>10</sup> A. Kroh, *Spisz, Spis, Zips, Szepesz*, [in:] *Spisz, wielokulturowe dziedzictwo*, Sejny 2000, pp. 9–24; M. Liptak, *Kim są Niemcy spiscy (karpaccy)*, [in:] *ibidem*, pp. 31–37.

return for that the peasant family was required to render the labour that varied from 56 to 100 days per year for one “morga” (piece of land equal to 6578 square yards).

Each peasant could theoretically resign from rendering the services in question but that would mean that he would have to leave the land and the house which many generations of his family previously occupied. On the other hand the peasants treated the land they occupied as their hereditary possession. Also if one of the family members left for America to earn money to improve his position other individuals of the family used to render the services instead of him. Likewise, according to the Hungarian law of 1896 if the *želari* decided to refuse rendering the discussed services the landlord could demand that such peasant should compulsorily buy the previously occupied land. But the terms of such transaction were so unfavourable to the peasant that there would hardly be anyone determined to conclude such a contract.

When in 1926 the *želari* of Falsztyn village refused to render their services to the landlord the latter filed a suit in the Court of Nowy Sącz against them.<sup>11</sup> The Court however dismissed the suit while arguing that since the 1921 and 1922 Statutes the Hungarian law no longer remained in force. The landlord lodged the appeal from this decision with the Cracow [Appeal] Court but without any success. It was also one of the last cases of applying Hungarian law by the courts on that area.<sup>12</sup>

Let us emphasize that the *želari* were the minority among the population of the village in which they lived. Most of the peasants were free of the duties to which the *želari* were subject. The *želari* were poor and non-educated, and occupied the lowest position in social stratification. It is until now that in the local Polish patois the noun *želari* smuggles a pejorative tone.<sup>13</sup>

## The Hungarian Feudal Institutions as Found in the Legal System of the Second Polish Republic. The Relationships between the Estate Manor and the Village in the Polish Spisz (Szepes) and Polish Orawa (Arva)

### Summary

The present paper discusses the unique customary norms of Hungarian law that until the 1920s survived within the boundaries of Poland in the area that at one time was a part of the Hungarian Crown. The discussed norms regulated the relationships between the landlord-controlled manor and the peasants inhabiting the area. The norms were found to be reflective of serfdom services that at one time the peasants were required to render for the benefit of the owner of the landed estate.

<sup>11</sup> Before 1918 that area was subjected to the Court of Spiska Nova Ves (Igló, Zipser Neuendorf).

<sup>12</sup> Hulewiczowa, pp. 122.

<sup>13</sup> *Ibidem*, pp. 124ff.